

STATE OF IOWA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURES	Policy Number PREA-03	Applicability <input checked="" type="checkbox"/> DOC <input checked="" type="checkbox"/> CBC
	Policy Code Confidential	Iowa Code Reference 904.602
Chapter 11 PRISON RAPE ELIMINATION ACT (PREA)	Related DOC Policies HSP-305, HSP-628, IO-SC-12, IO-SC-22, PREA-01, PREA-02 IO-HO-05, IO-HO-06	Administrative Code Reference N/A
Subject STAFF RESPONSE TO OFFENDER ON OFFENDER SEXUAL VIOLENCE OR RETALIATION	ACA Standards 4-4281-1, 4-4281-2 4-4281-3, 4-4281-4 4-4281-5, 4-4281-7 PREA Standards 115.6, 11(a-b), 17(g), 21(a)(d-e)(h), 22(a-b)(d), 33(a-f), 34(a-d), 51(a-d), 53(a-c), 54, 61(a-b)(e), 62, 63(a-d), 64(a)(1-4)(b), 65, 67(a-f), 71(a-l)(1-2), 72, 73(a)(b)(d-f), 82(b), 86(a-e)	Responsibility Diann Wilder- Tomlinson
	Effective Date October 2016	Authority Jerry Bartruff Director Signature on file at Iowa DOC

I. PURPOSE

To describe the procedures that shall be used at all Iowa Department of Corrections (IDOC) institutions to ensure that prevention, detection, response, investigation, prosecution, and tracking of offender-on-offender sexual violence and retaliation

allegations are completed by professional criteria and principles and meet the requirements of the PREA standards.

II. POLICY

It is the policy of the IDOC to provide a safe, humane and secure environment, free from the threat of sexual violence or retaliation for all offenders, by maintaining a program of education, prevention, detection, response, investigation, prosecution, and tracking. IDOC has zero tolerance for sexual violence of any kind. This policy shall be available to all staff and shall be reviewed and updated annually. **(PREA 115.11(a), 65)**

CONTENTS

- A. General Provisions
- B. Reporting of Sexual Violence
- C. Duties of the Director's Office
- D. Duties of Staff
- E. Duties of Warden
- F. Sexual Assault Allegation Process
- G. Sexual Abuse Allegation Process
- H. Investigation of Sexual Violence
- I. Reporting to Offenders
- J. Specialized Training for Sexual Violence Investigators
- K. Sexual Violence Incident Reviews
- L. Protection Against Retaliation

III. DEFINITIONS – As used in this document:

- A. Allegation - Any event that is said to have happened, but which has not yet been verified. These events may include rumor and "offender talk."

- B. First Responders - The first staff to arrive at the scene of a sexual assault or sexual abuse.
- C. Inspector General - Deputy level Supervisor appointed by the Director whose responsibility includes direct supervision of the PREA Coordinator and statewide oversight of PREA implementation and compliance within Institutions and Community Based Corrections (CBC).
- D. Inspector General's Office - Division of internal and sexual violence investigations located in Central Office.
- E. Memoranda of Understanding (MOU) - Agreements between community rape crisis centers and each IDOC institution that delineate the responsibilities of each entity to provide offenders with confidential emotional support services related to sexual violence. **(PREA 115.53(c))**
- F. PREA - Prison Rape Elimination Act.
- G. PREA Coordinator - The person designated by the Director with the sufficient time and authority to serve as the department-wide coordinator to develop, implement, and oversee agency efforts to comply with the PREA standards in all IDOC institutions. **(PREA 115.11(b))**



- I. Qualified Staff Member - An IDOC staff member who has been screened for appropriateness to serve as a victim advocate and has received approved education concerning sexual assault and forensic examination issues in general. **(PREA 115.21(h))**
- J. Retaliation - Includes, but is not limited to, an act of vengeance, covert or overt action or threat of action, or harassment against an offender, staff, contractor, or volunteer in response to a complaint of sexual violence or cooperation in the reporting or investigation thereof, regardless of the merits or the disposition of the complaint. Examples of acts of retaliation include but are not limited to: unnecessary discipline, changes in work or program assignments, unjustified

transfers or placements, or unjustified denials of privileges or services, intimidation, threats, assaults, or other physical violence.

- K. Safe Cell - Designated cells within each institution for placement of offenders alleged to have been victimized by sexual violence.
- L. Sexual Abuse - Includes but is not limited to incidents when the victim does not consent, is coerced by overt or implied threats of violence, or is unable to consent or refuse and the contact includes, but is not limited to, intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person. Sexual abuse excludes contact incidental to a physical altercation with no sexual intent for the contact. Also referred to as abusive sexual contact. **(PREA 115.6)**
- M. Sexual Assault - Includes but is not limited to incidents when the victim does not consent, is coerced by overt or implied threats of violence, or is unable to consent or refuse and the contact consists of contact between the genitalia or between genitalia and anus including penetration, however slight; or contact between the mouth and the genitalia or anus; or penetration of the anal or genital opening of another person by hand, finger, or other object. Also referred to as nonconsensual sexual acts. **(PREA 115.6)**
- N. Sexual Violence - A general umbrella term that encompasses all forms of non-consensual sexual behavior.
- O. Staff - Refers to an employee, vendor, or agent of IDOC.
- P. Victim - A person against whom sexual violence is committed or attempted.
- Q. Victim Advocate - A staff member or volunteer from Iowa Coalition Against Sexual Assault (IowaCASA) or an Iowa sexual assault/rape crisis center who is certified by IowaCASA under **Iowa Code 915.20A**, and whose responsibilities include services to survivors of sexual assault in Iowa's correctional institutions; renders support and assistance, provides individual and group counseling, and delivers on-going training and technical assistance.
- R. See IDOC Policy **AD-GA-16** for additional Definitions.


IV. PROCEDURES

- A. General Provisions
 - 1. All offenders shall be advised of their right to be free of sexual violence by other offenders and free from retaliation by offenders or staff.

2. All allegations and incidents of offender-on-offender sexual violence, retaliation, and staff neglect or violation of duty that may have contributed to such an incident shall be reported to the Warden, the institution's sexual violence investigator, and the Inspector General or designee. All allegations shall be fully investigated as directed by the Inspector General or designee and treated in a confidential and serious manner.
3. Each institution shall establish a method to receive third-party reports of offender-on-offender sexual violence, retaliation, or staff neglect or violation of responsibilities that may have contributed to such incidents and shall distribute publicly information on how to report the same on behalf of an offender. Each institution shall immediately report all allegations of sexual violence, including third-party and anonymous reports and allegations to the Inspector General or designee and to the institution's sexual violence investigator. **(PREA 115.54, 61(e))**
4. Each institution shall provide a method for staff to privately report sexual violence against offenders. **(PREA 115.51(d))**

[REDACTED]

6. The Inspector General or designee shall ensure that an administrative or criminal investigation is completed for all allegations of precursor behavior, sexual abuse, sexual assault, or retaliation. **(PREA 115.22(a))**
7. All records associated with allegations and incidents of sexual assault, sexual abuse, and retaliation [REDACTED]
8. All sexual violence investigations are confidential under Iowa statute and administrative rules. Other than reporting to supervisors or the institution's sexual violence investigator or PREA Compliance Manager, staff shall not reveal any information related to a report to anyone other than to the extent necessary, as specified in IDOC policy, to make treatment, investigation, and other security or management decisions. **(PREA 115.61(b))**

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10. Inspector General or designee shall determine when the evidence is sufficient for criminal prosecution and shall refer appropriate incidents to criminal authorities. All referrals shall be documented. **(PREA 115.22(b), 71(h))**
 11. IDOC shall publish the sexual violence investigation policies on its website. **(PREA 115.22(b))**
 12. IDOC shall make best efforts to ensure that any other State entity responsible for conducting administrative or criminal investigations of precursor behavior, sexual abuse, sexual assault or retaliation in IDOC facilities shall have in place a policy governing the conduct of such investigations. **(PREA 115.22(d))**
 13. Offender Access to Outside Confidential Support Services
 - a. The institution shall provide offenders with access to outside victim advocates for emotional support services related to sexual violence by giving offenders mailing addresses and telephone numbers. The institution shall enable reasonable communication between offenders and these organizations and agencies, in as confidential a manner as possible. **(PREA 115.53(a))**
 - b. The institution shall inform offenders, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of sexual violence will be forwarded to authorities in accordance with mandatory reporting laws. **(PREA 115.53(b))**
 - c. The institution PREA Compliance Manager shall enter into or attempt to enter into a memoranda of understanding or other agreement with community rape crisis service providers. Each institution shall maintain copies of agreements or documentation showing attempts to enter into such agreements. **(PREA 115.53(c))**

B. Reporting of Sexual Violence to Other Confinement Facilities

1. Upon receiving an allegation that an offender was sexually abused or sexually assaulted by another offender while confined at another facility,

the Warden shall immediately notify the Inspector General or designee. The Inspector General or designee shall notify the facility or appropriate office of the agency where the alleged abuse occurred. **(PREA 115.63(a))**

2. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. **(PREA 115.63(b))**
3. The Inspector General or designee shall document that such notification has been provided. **(PREA 115.63(c))**
4. The Inspector General or designee shall ensure that the allegation is investigated in accordance with the requirements of the PREA standards. **(PREA 115.63(d))**

C. Duties of the Director's Office

1. The IDOC shall develop a consistent statewide process for reporting and investigating incidents of sexual violence, retaliation, or staff neglect or violation of duty that may have contributed to such incidents. This process shall include multiple points of reporting for offenders and staff, specially trained investigators, and a consistent investigative process. **(PREA 115.65)**
2. The Inspector General or Designee shall:
 - a. Develop, implement, and oversee IDOC efforts to comply with the requirements of the PREA standards and any other requirements by the Department of Justice as to offender sexual violence in correctional facilities.
 - b. Assign specially trained sexual violence investigators and manage all sexual violence investigations, allegations, and incidents of sexual violence or retaliation. Investigations shall be conducted promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. **(PREA 115.71(a-b))**
 - c. Determine when the evidence of offender sexual violence or retaliation is sufficient for criminal prosecution and complete county attorney referrals. **(PREA 115.71(h))**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. When the quality of evidence appears to support criminal prosecution, the investigators shall conduct compelled interviews only after the Inspector General has determined, including but not limited to consultation with prosecutors, if compelled interviews may be an obstacle for subsequent criminal prosecution. **(PREA 115.71(d))**
7. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as offender or staff. IDOC shall not require an offender who alleges sexual violence submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. **(PREA 115.71(e))**


[REDACTED]


9. IDOC shall make best efforts to ensure that criminal investigations by outside agencies are to be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and copies of all documentary evidence are attached where feasible. **(PREA 115.71(g))**



11. The institution and IGO shall retain all written sexual violence investigation reports for as long as the alleged perpetrator is incarcerated or employed by the agency, plus five years. **(PREA 115.71(i))**
12. The departure of the alleged perpetrator or victim from the employment or control of IDOC shall not provide a basis for terminating a sexual violence investigation. **(PREA 115.71(j))**
13. IDOC shall make best efforts to ensure that any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements. **(PREA 115.71(k))**
14. When outside agencies investigate sexual violence, IDOC shall cooperate with outside investigators and shall endeavor to remain informed and keep the Inspector General informed about the progress of the investigation. **(PREA 115.71(l))**
15. IDOC shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual violence are substantiated. **(PREA 115.72)**


D. Duties of Staff

1. Staff shall adhere to all the procedures and guidelines of this policy and shall ensure their conduct does not facilitate offender sexual violence or retaliation nor in any other way violate the provisions of this policy.
2. It is mandatory that all allegations and incidents of sexual violence, retaliation, or staff neglect or violation of duty that may have contributed to such incidents be immediately reported to their supervisor.
3. Staff shall provide complete cooperation and shall not interfere with the official process of the investigation. 

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4. Staff shall not retaliate upon knowledge of sexual violence or precursor behavior allegations. **(PREA 115.67(a))**

E. Duties of Warden

1. The Warden is responsible for ensuring that their policies, training and culture address the issues of offender sexual violence, retaliation, and staff neglect or violation of responsibility that may have contributed to such incidents.
2. The Warden shall ensure offenders are provided with information about behaviors that constitute sexual assault, sexual abuse, and retaliation, ensure that offenders understand the process by which such incidents are reported and investigated, and ensure offenders understand consequences for making false allegations. **(PREA 115.33(a-f))** See IDOC Policy **PREA-01**, *Offender PREA Information*.

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4. The Warden shall assure the immediate notification to the Inspector General or designee of all allegations and incidents of sexual violence, retaliation, and staff neglect or violation of duty that may have contributed to such an incident.
 5. The Warden shall ensure that all actions taken are documented.

F. Sexual Assault Allegation Process

1. When an institution learns that an offender is subject to a substantial risk of imminent sexual violence, it shall take immediate action to protect the offender. **(PREA 115.62)**

2. Initial Report

- a. An offender may report sexual violence, retaliation, or staff neglect or violation of responsibilities that may have contributed to such incidents in any way, including:

- (1.) To a staff member.
- (2.) Send a staff message or letter to the institution Warden.
- (3.) Send a letter to:

Victim and Restorative Justice Director:
Iowa Department of Corrections
510 East 12th Street
Des Moines, IA 50319
(4-4281-7)(PREA 115.51(a))

- (4.) Send a letter to:

The Iowa Ombudsman Office
Office of Citizens' Aide/Ombudsman
Ola Babock Miller Building
1112 East Grand
Des Moines, IA 50319
(PREA 115.51(b))

- b. Report by an offender, anonymously, or from third parties - Any staff member who receives a report of sexual violence or retaliation, whether verbally or in writing from an offender or anonymously or from third parties, shall immediately notify the Shift Supervisor and complete an incident report. **(4-4281-7)(PREA 115.51(c))**
- c. Report by a staff member - Any staff member who receives a report of sexual violence, retaliation, or of staff neglect or violation of responsibilities that may have contributed to such incidents whether verbally, in writing, anonymously, or from third parties, or who has other knowledge, suspicion, or information of such incidents shall immediately report it to their supervisor and complete an incident report. **(4-4281-3)(4-4281-7)(PREA 115.51(c), 61(a))**

3. First Responders - The first staff on the scene of a sexual assault shall:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. The Shift Supervisor shall assure that:

[REDACTED]

[REDACTED]

- c. All requirements of IDOC Policies **IO-HO-05**, *Administrative Segregation* and **IO-HO-06**, *Protective Custody Segregation* are met.
- d. The institution's sexual violence investigator or other designated staff person shall immediately complete an Incident Report in the PREA Investigation Database and finalize and submit it. The

Inspector General or designee shall assign investigators and manage the investigation.

[REDACTED]

[REDACTED]

- g. The offender victim is offered the opportunity to meet with a victim advocate from a community crime victim center. If an advocate from the community is not available to provide victim advocate services, the shift supervisor shall ensure that the opportunity to meet with a qualified staff member is offered to the victim. The effort to secure services from the community shall be documented.

[REDACTED]

- h. If requested by the alleged victim, the victim advocate or qualified staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. All counseling sessions shall be held in a private area. Counseling may continue for up to six sessions. **(4-4281-3)(4-4381-7)(PREA 115.21(e))**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

G. Sexual Abuse Allegation Process

The Shift Supervisor shall assure that:

[REDACTED]

[REDACTED]

3. All requirements of IDOC Policies **IO-HO-05**, *Administrative Segregation* and **IO-HO-06**, *Protective Custody Segregation* are met.

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
8. The offender victim is offered the opportunity to meet with a victim advocate from a community crime victim center. If an advocate from the community is not available to provide victim advocate services, the shift supervisor shall ensure that the opportunity to meet with a qualified staff member is offered to the victim. The effort to secure services from the community shall be documented. [REDACTED]
- [REDACTED]

9. If requested by the victim, the victim advocate or qualified staff member shall accompany and support the victim through the investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. The sexual violence investigator shall be notified if a victim makes this request and shall arrange for the advocate or qualified staff member to be present during interviews of the victim. **(4-4281-3)(4-4381-7)(PREA 115.21(e))**
- [REDACTED]

H. Investigation of Sexual Violence

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. When the quality of evidence appears to support criminal prosecution, the investigators shall conduct compelled interviews only after the Inspector General has determined, including but not limited to consultation with prosecutors, if compelled interviews may be an obstacle for subsequent criminal prosecution. **(PREA 115.71(d))**
5. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as offender or staff. IDOC shall not require an offender who alleges sexual violence submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. **(PREA 115.71(e))**

[REDACTED]

- [REDACTED]
7. IDOC shall make best efforts to ensure that criminal investigations by outside agencies are to be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and copies of all documentary evidence are attached where feasible. **(PREA 115.71(g))**
- [REDACTED]

9. The institution and IGO shall retain all written sexual violence investigation reports for as long as the alleged perpetrator is incarcerated or employed by the agency, plus five years. **(PREA 115.71(i))**
10. The departure of the alleged perpetrator or victim from the employment or control of IDOC shall not provide a basis for terminating a sexual violence investigation. **(PREA 115.71(j))**
11. IDOC shall make best efforts to ensure that any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements. **(PREA 115.71(k))**
12. When outside agencies investigate sexual violence, IDOC shall cooperate with outside investigators and shall endeavor to remain informed and keep the Inspector General informed about the progress of the investigation. **(PREA 115.71(l))**
13. IDOC shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual violence are substantiated. **(PREA 115.72)**

I. Reporting to Offenders

1. Following an investigation into an allegation of sexual assault or sexual abuse the sexual violence investigator shall inform the offender victim as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded, using **PREA-03 F-3, Investigator's Closure Letter to Offender. (PREA 115.73(a))**

2. If IDOC did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the offender. **(PREA 115.73(b))**
 3. Following a substantiated or unsubstantiated investigation of an allegation of sexual assault or sexual abuse, the institution shall subsequently inform the offender victim whenever:
 - a. the institution learns that the alleged perpetrator has been indicted on a charge related to sexual assault or sexual abuse within the facility;
 - b. The institution learns that the alleged perpetrator has been convicted on a charge related to sexual assault or sexual abuse within the facility. **(PREA 115.73(d))**
 - c. All such notifications or attempted notifications shall be documented. **(PREA 115.73(e))**
 - d. IDOC's obligation to report under this standard shall terminate if the offender is released from IDOC custody. **(PREA 115.73(f))**
- J. Specialized Training for Sexual Violence Investigators
1. In addition to the general training provided to all employees, the Inspector General shall ensure that, to the extent IDOC conducts sexual violence investigations, its sexual violence investigators have received specialized training in conducting such investigations in confinement settings. **(PREA 115.34(a))**
 2. Specialized training shall include techniques for interviewing sexual assault and sexual abuse victims, proper use of Miranda and Garrity warnings, the impact of the Peace Officers' Bill of Rights, sexual assault evidence collection in confinement settings, characteristics and behavior indicators of sexual violence perpetrators and victims in correctional settings, credibility assessments, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. **(PREA 115.34(b))**
 3. The Inspector General shall maintain documentation that sexual violence investigators have completed the required specialized training in conducting such investigations. **(PREA 115.34(c))**

4. IDOC shall make its best efforts to ensure that any other State entity or Department of Justice component that investigates sexual violence in confinement settings shall provide the required specialized training to its agents and investigators who conduct sexual violence investigations in IDOC facilities. **(PREA 115.34(d))**

K. Sexual Violence Incident Reviews

1. The institution, in association with the PREA Coordinator, shall conduct a sexual violence incident review at the conclusion of every sexual violence investigation that results in a substantiated or unsubstantiated finding. **(PREA 115.86(a))**
2. Such review shall ordinarily occur within 30 days of the conclusion of the investigation. **(PREA 115.86(b))**
3. The review team shall include:
 - a. Warden or designee;
 - b. Unit managers or other upper-level management team members responsible for the areas of the institution where the incident occurred;
 - c. Shift supervisors involved with the case or the shift on which the misconduct occurred;
 - d. At least one of the sexual violence investigators on the case;
 - e. Medical or mental health practitioners when involved with the perpetrator or the victim;
 - f. Institution's PREA Compliance Manager;
 - g. PREA Coordinator in substantiated cases of staff sexual misconduct or offender sexual assault. **(PREA 115.86(c))**
4. The review team shall:
 - a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual violence;
 - b. Consider whether the incident or allegation was motivated by

race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status, gang affiliation, or was motivated or otherwise caused by other group dynamics at the institution;

- c. Examine the areas where the incident occurred to assess whether physical barriers in the area may enable abuse;
 - d. Assess the adequacy of staffing levels in that area during different shifts;
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - f. Prepare a report of its findings using **PREA-03 F-4, *Sexual Abuse Incident Review Report***, or and by entry of Form 4 into the PREA Investigation Database. The report shall include but not necessarily be limited to determinations made pursuant the above, and any recommendations for improvement. The report to the Warden, Institution Operations Deputy Director, Inspector General, the institution's PREA Compliance Manager, and the PREA Coordinator. **(PREA 115.86(d))**
5. The institution shall implement the recommendations for improvement, or shall document its reasons for not doing so. **(PREA 115.86(e))**

L. Protection Against Retaliation

- 1. The institution shall protect all offenders and staff who report sexual violence or cooperate with investigations from retaliation by other offenders or staff, and shall designate which staff members or institution departments are charged with monitoring retaliation. **(PREA 115.67(a))**
- 2. The institution shall employ multiple protection measures, such as housing changes or transfers for offender victims or perpetrators, removal of alleged staff aggressors or offender perpetrators from contact with victims, and emotional support services for offenders or staff who fear retaliation for reporting or cooperating with investigations. **(PREA 115.67(b))**
- 3. For at least 90 days following a report of sexual violence, the institution shall monitor the conduct and treatment of offenders or staff who reported the sexual violence and of offenders who were reported to have

suffered sexual violence to see if there are changes that may suggest possible retaliation by offenders or staff, and shall act promptly to remedy any such retaliation. The institution shall monitor any offender disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The institution shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. **(PREA 115.67(c))**

4. In the case of offenders, such monitoring shall also include periodic status checks. **(PREA 115.67(d))**
5. If any other individual who cooperates with an investigation expresses a fear of retaliation, the institution shall take appropriate measures to protect that individual against retaliation. **(PREA 115.67(e))**
6. The obligation to monitor shall terminate if IGO determines that the allegation is unfounded. **(PREA 115.67(f))**
7. The institution shall develop procedures to implement the protection against retaliation requirements and shall document all measures taken and monitoring checks. Tracking for retaliation shall be entered in the PREA Investigation Database.

